

# Ogletree Deakins

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August 28, 2015

**Via ECF**

The Honorable Richard J. Sullivan  
U.S. District Court Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

RE: Lola, et al. v. Skadden, Arps, Slate, Meagher & Flom, Tower Legal Staffing, Inc.  
Case No.: 13 Civ. 5008 (RJS)(DCF)

Dear Judge Sullivan:

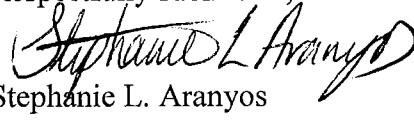
We write on behalf of defendant Skadden, Arps, Meagher, Slate & Flom LLP (“Skadden”) to respectfully request a ruling on Skadden’s motion pursuant to Fed. R. Civ. P. 12(b)(6) that Skadden was not, as a matter of law, an “employer” within the meaning of the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* (“FLSA”).

By way of brief background, on or about July 18, 2013, Plaintiff filed his Complaint on behalf of himself and other allegedly similarly-situated individuals alleging that Defendants failed to pay him overtime for hours worked in excess of forty (40) hours per week. (Dkt. #17, ¶ 14.) On or about September 20, 2013, defendants Skadden and Tower Legal Solutions, Inc. d/b/a Tower Legal Staffing requested a pre-motion conference to move to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(6) on the basis that Lola was exempt from overtime under the FLSA and that Lola failed to adequately plead that Skadden was his “employer” within the meaning of the law. On September 16, 2014, Your Honor granted defendants’ motion to dismiss on the basis that Lola qualified as “exempt” under the FLSA, thus finding it unnecessary to consider the “joint employer” issue. (See Dkt. # 35.)

Skadden respectfully requests a ruling on the “joint employer” issue raised in its motion to dismiss. Skadden is willing to rest on its prior fully briefed and submitted motion or resubmit the motion, as the Court may direct.

Thank you for Your Honor’s consideration of this request.

Respectfully submitted,



Stephanie L. Aranyos

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cc: Maimon Kirschenbaum, Esq.  
Denise Schulman, Esq.  
Brian J. Gershengorn, Esq.